

APPENDIX 5

Report of the Head of Communications and Customer Engagement

Corporate Briefing – 6 October 2016

REGULATION OF INVESTIGATORY POWERS (RIPA) ANNUAL REPORT 2015-2016

Purpose:	To report on the operation of the Authority's use of covert surveillance, conducted under the provisions of The Regulation of Investigatory Powers Act (RIPA) 2000 for the period 1 April 2015 to 31 March 2016
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FOR INFORMATION	

1. Introduction

- 1.1 The Regulation of Investigatory Powers Act (RIPA) 2000 allows local authorities to conduct covert surveillance activity in circumstances where it is for the purpose of preventing or detecting crime or of preventing disorder. It also allows local authorities to acquire communication data from Communication Providers.
- 1.2 The process must be in accordance with the Home Office's Code of Practice for Covert Surveillance and Code of Practice on Acquisition of Communication data and this report has been prepared in line with best practice.
- 1.3 This report will provide an overview to the Cabinet of the Authority's practices and activity regulated by RIPA.

1.4 Glossary of Terms

RIPA	Regulation of Investigatory Powers Act (RIPA) 2000
OSC	Office of Surveillance Commissioners – Central Government
IOCCO	Interception of Communications Commissioner's Office
Inspection	Biennial event to monitor compliance in surveillance matters

Glossary of Terms (continued)	
RIPA Application	A request for a surveillance exercise
Applicant	Officer requesting surveillance
Countersigning Officer	An officer who brings further experience to the Application
Authorised Officer	Officer responsible for surveillance compliance and monitoring
CHIS [defined in Section 26(8) of the Act]	Covert Human Intelligence Source. A person is a covert human intelligence source if— (a)he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c); (b)he covertly uses such a relationship to obtain information or to provide access to any information to another person; or (c)he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.
Gatekeeper	Officer responsible for administration of surveillance practice
FOI	Requests under the Freedom of Information Act 2000
Communications Data [defined in Section 21(4) of the Act]	(a) any traffic data comprised in or attached to a communication for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted; (b) any information which includes none of the contents of a communication (apart from any information falling within paragraph (a)) and is about the use made by any person— (i) of any postal service or telecommunications service; or (ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system; (c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.

2. Service Delivery

2.1 A list of authorised officers is shown in Appendix 1.

2.2 Table 1 below shows the types of surveillance permitted under RIPA for Local Authority use, comparing annual usage over the last 4 years.

TABLE 1 - Surveillance Permitted Under RIPA				
	2012-13	2013-14	2014-15	2015-16
Directed	9	4	1	1
Interception of Communications	0	0	0	0
Acquisition / Disclosure of Communications Data	44	0	0	0
Covert Human Intelligence Source	0	0	0	0

2.3 Directed Surveillance

2.3.1 Directed surveillance is covert surveillance which is carried out in relation to a specific investigation which is likely to result in the obtaining of private information about a person. Since 1 November 2012, pursuant to the Protection of Freedoms Act 2012 and amendments made to RIPA legislation, such techniques may only be used where the offence under investigation either:

(a) attracts a maximum penalty of at least 6 months imprisonment; or

(b) is contrary to either Section 146 or 147 or 147A Licensing Act 2003; or

(c) is contrary to Section 7 Children and Young Person Act 1993.

Just 1 Authorisation was granted during 2015-16 as shown in Table 2 below. This figure has again decreased from the previous year, which reflects officer's commitment to explore the least intrusive method of gaining information to carry out the Local Authority's responsibilities.

2.4 Acquisition and Disclosure of Communications Data

2.4.1 Since 8 February 2012, the City & County of Swansea (CCS) has subscribed to the National Anti-Fraud Network (NAFN)'s Single Point of Contact Services to acquire this information. Annual Returns are provided to the Interception of Communications Commissioner's Office on a calendar year basis.

2.5 Covert Human Intelligence Source (CHIS)

2.5.1 No CHIS activity took place during this year.

2.6 Surveillance Activity

2.6.1 Table 2 below shows the use of RIPA by services and its purpose within the City and County of Swansea

TABLE 2 - Use of RIPA		
Directed Surveillance		
Trading Standards	1	Detection of illegal Sub-Letting
Covert Human Intelligence Source		
	0	
Acquisition and Disclosure of Communications Data		
	0	

2.6.2 CCS operates an extensive Closed Circuit Television (CCTV) system to provide a safer environment for the community. The system is managed and developed in partnership with the South Wales Police. The use of CCTV is not covered by the same regulations as the surveillance reported on above as it is an overt not covert method of observation. A separate code of practice and annual report apply to the CCTV system and are public documents.

2.6.3 If requested the system can also be used for directed surveillance by the police for law enforcement purposes or for a specific exercise. If this does occur, the use changes from overt to covert surveillance and will be regulated by RIPA. The Police have responsibility to comply with the legislation in these cases. As a matter of transparency and good practice we will include in this report the use of our equipment for this purpose. Any specific use for local authority purposes would be reported under service usage.

2.6.4 During 2015-16, no directed surveillance requests were made by the police to utilise the authority's CCTV equipment which were conducted under Police RIPA authorisations.

3. Progress & Development

3.1 Since 1st November 2012, all local authority surveillance and access to communication data authorised under the Regulation of Investigatory Powers Act 2000 (RIPA) have required the approval of a Magistrate.

3.4 The list of Authorised Officers reflects those services most likely to conduct criminal investigations which satisfy the serious crime test set out in the legislation above. This would include Trading Standards and Housing Benefit officers.

3.5 It should be noted that from 1 June 2015 Housing Benefit fraud investigations have been conducted solely by the Department for Works and Pensions.

4. Inspection

- 4.1 On 21 October 2015, the Office of the Surveillance Commissioner conducted an Inspection which takes place every three years. The inspection was carried out by Surveillance Inspector, Neil Smart.
- 4.2 The Surveillance Commissioner endorsed the inspection report. Whilst he recognised that the Authority now rarely uses these powers, he reiterated the importance of ensuring that the legislative provisions are taken seriously and that procedures are in place to ensure the Authority is not vulnerable to legal challenge when carrying out surveillance activities.

5. Freedom of Information (FOI)

- 5.1 Media coverage of incidents in other parts of the country brought to the public attention local authorities ability to use surveillance under RIPA. This was reflected in the receipt of related media enquiries.
- 5.2 There have been 2 FOI requests related to RIPA activities during the year. In both cases the requester was provided with details of past annual reports which provided the information requested.

6. Equality and Engagement Implications

- 6.1 There are no equality and engagement implications

7. Financial Implications

- 7.1 All costs incurred in dealing with RIPA have to be covered within existing budgets.

8. Legal Implications

- 8.1 As set out in the Report

Background Papers: None

Appendices: Appendix 1 – Authorised Officers

Appendix 1

TABLE 3 – RIPA Authorised Officers.	
Name	Department / Section
Rose McCreesh Phil Thomas	Housing Benefit Housing Benefit
Lynda Anthony Huw Morgan David Picken	Environmental Health Environmental Health Environment Health (Trading Standards)